

C. REMARKS

In the Office Action of 26 November 2004, Claims 1-5 were rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 6,456,981 to *Dejaeger et al.* In response, claims 1, 3, 4, and 5 have been amended to further clarify the claimed invention. In addition, new claims 6-19 have been added.

The present application describes a computer-assisted method of establishing a brand presence in a facility. The present invention provides a system and method of delivering entertainment and advertising content to facilities that use relatively inexpensive playback systems. Personnel from a remote facility access via a medium such as for example the Internet a central network computer at a central office. The central network computer includes a playlist that controls the playback of audio and video broadcasting within the remote facility. The facility personnel enter on the playlist identifiers of advertisements related to the facility. The playlist is transferred, or pushed, to the facility, which playlist includes advertisements related to the facility.

U.S. Patent No. 6,456,981 to *Dejaeger et al.* ("*Dejaeger*") describes a method for displaying a customized advertising message on a display monitor in a retail terminal such as a grocery or department store. Advertising messages are displayed on the display monitor based on the retail information of the user. Retail information is included in a user profile associated with a user's previous use of the retail terminal. The retail checkout terminal is operated so as to allow the user to enter items for purchase into the retail checkout terminal. The retail information included in the user profile is retrieved. The advertising message is generated based on the retail information of the user profile. The advertising message is communicated to the user on the display monitor associated with the retail checkout terminal.

The Office Action cites to column 15, lines 5-16 in arguing that *Dejaeger* discloses "entering on the playlist, by facility personnel, identifiers of advertisements related to the facility." In fact, the paragraph cited by the Office Action does not disclose, describe or teach this step of establishing a brand presence in a facility. Rather, this paragraph describes the unremarkable proposition that the server determines if another advertising message is to be displayed on the self-service checkout terminal:

"In step 122, the central server 42 determines if an additional advertising message is to be displayed on the self-service checkout terminal 18. In particular, the retailer may configure the retail system 10 such that advertising messages are displayed during the entire checkout operation, or alternatively, the retailer may elect to only display a predetermined number of messages during a given transaction. Hence, in step 122, if an additional advertising message is to be displayed on the self-service checkout terminal 18, the subroutine 116 advances to step 124. If no additional advertising messages are to be displayed on the self-service checkout terminal 18, the subroutine 116 then ends thereby advancing the routine 100 (see FIG. 5) to a survey subroutine 126."

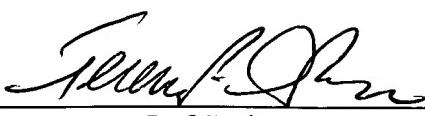
Thus, this fails to disclose, describe or teach "identifiers of advertisements related to the facility."

In addition, the only thing this paragraph identifies that the retailer can configure is whether a predetermined number of advertisements are played or whether advertisements are played during the entire checkout operation. Thus, *Dejaeger* also fails to disclose, describe or teach "entering on the playlist, by facility personnel, identifiers of advertisements related to the facility."

Still further, the claims have been amended or newly presented to alternatively specify that it is a "central network computer" and a "remote facility" (claims 1-7); that the facility personnel access the computer having a playlist that controls the playback of audio and video broadcasting within the facility via the Internet (claims 8-13); and that the playlist which includes advertisements related to the facility is pushed to the facility (claims 14-19). None of these requirements are disclosed, described or taught by *Dejaeger*.

Accordingly, for at least the reasons stated above, it is respectfully submitted that claim 1, as amended, overcomes the rejection based upon *Jaeger* and is believed to be in condition for allowance. Further, claims 2-5 depend from independent claim 1, and are believed to be patentable over *Jaeger* at least the same reasons. Still further, new claims 6-19 are also believed to be patentable over *Jaeger* at least the same reasons stated above. Therefore, it is respectfully submitted that all of the claims recite patentable subject matter and are in condition for allowance. Accordingly, favorable reconsideration and allowance of the application is respectfully requested.

Respectfully submitted,

By 
Terence P. O'Brien
Attorney for Applicant
Registration No. 43,840

Date 25 May 2005
Clubcom, Inc.
(c/o Wilson Sporting Goods Co.)
8700 W. Bryn Mawr Avenue
Chicago, IL 60631

Telephone: (773) 714-6498
Facsimile: (773) 714-4557